

KASSON TOWNSHIP PLANNING COMMISSION

Monday, July 19, 2021, 7:00pm

Kasson Township Townhall

10988 S. Newman Rd. Maple City, MI 49664

1. **CALL TO ORDER/Pledge of Allegiance:** Chair Otto called the meeting to order at 7:04pm with the Pledge of Allegiance.
2. **RECOGNITION OF VISITORS AND ROLL CALL OF COMMISSIONERS**
 - A. **COMMISSIONERS PRESENT (roll call):** Commissioner Jim Anderson, Commissioner Kenneth Carter, Chair Stella Otto, Vice Chair Gerald Roush and Secretary Chuck Schaeffer
 - B. **STAFF PRESENT:** Tim Cypher, Zoning Administrator, and Sandy Dunkin, Recording Secretary
 - C. **VISITORS PRESENT:** Dana Booker, Robert Chacon, Eugene Homeister, Jim Lively, Ed Wilber, Tom Wolf and one more.
3. **CONSIDERATION OF THE AGENDA: Additions or Deletions** - Chair Otto asked for any additions or deletions to the July agenda as presented. Otto advised to add correspondence received from the Sound Engineer and Attorney. Carter moved to accept the July 19, 2021, agenda as modified; Anderson seconded. All present in favor, motion carried.
4. **DECLARATION OF CONFLICTS OF INTEREST:** None reported.
5. **GENERAL COMMENTS FROM THE PUBLIC (excludes SUP renewal):** None currently.
6. **PUBLIC HEARING – Renewal of SUP for Elmer’s 669 Pit**

Schaeffer moved to open the public hearing; Roush seconded. All present in favor, motion carried.

 - A. Presentation by applicant – Tom Wolf, Elmers, reported there are no changes to the SUP for Elmer’s 669 pit. Wolf advised Elmers is slowly filling the pit with organic matter, trees and soils. Otto confirmed with Wolf that is mining complete with some materials to be taken out at this time.
 - B. Report form Zoning Administrator – Cypher advised that the application, bond and staff report that included the inspection and standard findings document has been completed with everything in order. Cypher reported the 300 foot letter went out to residents.
 - C. Findings of Fact – Chair Otto confirmed with commissioners that they are satisfied with items as presented in the handouts.
 - D. Public Comment – None currently.
 - E. Commission Discussion – None currently.
 - F. Final Commission Discussion and Vote – Motion to adopts the standard Kasson Twp approval resolution with the two-year condition
Schaeffer moved for the adoption of KTPC approval/resolution #1 to grant an extension of SUP for gravel processing and mining property 045-007-017-001-10 and 045-007-

017-001-20 with the following conditions of the renewal not to exceed two years, subject to approval of the planning commission, through July 20, 2023; Roush seconded. All present in favor, motion carried (see **KTPC Approval Resolution Number One at end of these minutes**).

Cypher stated that previous discussion was to combine all the Elmer's renewals in order to facilitate one review. Otto advised this will come up at the new renewal date of other SUPs for Elmers as discussed at the June planning commission meeting.

Roush moved to close the public hearing for the renewal of SUP for Elmer's 669 pit; Carter seconded. All present in favor, motion carried.

7. APPROVAL OF MINUTES – June 21, 2021 Special Meeting

Chair Otto asked for a motion to approve the June 2021, Special Site Visit Meeting minutes. Otto advised that Secretary Schaeffer completed the minutes as the recording secretary was not in attendance. Otto advised of one change to the minutes as the pledge of allegiance was not performed. Discussion followed. Roush moved to approve the June 21, 2021, Planning Commission Special Site Visit Meeting Minutes with the change noted above; Anderson seconded. All present in favor, motion carried.

APPROVAL OF MINUTES – June 21, 2021 Regular Meeting

Chair Otto asked for a motion to approve the June 2021, meeting minutes as presented. Schaeffer moved to approve the June 21, 2021, Planning Commission Meeting; Anderson seconded. All present in favor, motion carried.

8. CORRESPONDENCE RECEIVED

- A. Leelanau County Planning – Announcement of Seminar: Right to Farm and Farm Market GAMPS, September 29, 2021 – Schaeffer reported on the live event at the Leelanau County Government Center in Suttons Bay from 6 to 8pm.
- B. Letter from Kolana and Saha Engineers, Inc. – To be discussed under unfinished business, 10.A.
- C. Letter from the Running Wise Law Firm – To be discussed under unfinished business, 10.A.

9. REPORTS:

- A. Chairperson–Commissioner Otto had no report at this time.
- B. Secretary – Commissioner Schaeffer had no report. Schaeffer reported on the Technology Committee discussion with Jim Selby with respect to spending the COVID money on infrastructure. Discussion followed. Schaeffer advised he will bring new language to next month's meeting with respect to technology changes that the point to point restriction would hamper certain techniques of transmission. Discussion followed on the best solution of maximizing dollars to bury fiber optic cable.
- C. Township Board – Commissioner Carter reported that township board members have made a request for planning commission members to consider changing the current ordinance with respect to the berms, in order to plant trees on flat level ground first with

berms behind the tress, which would make the setback a bit wider. Carter advised there was no timeline regarding this ordinance change consideration. Discussion followed. Roush stated that planning commissioners should have this discussion when changing the ordinance.

- D. Zoning Board of Appeals – Commissioner Anderson had nothing to report.
- E. Zoning Administrator’s Report – Zoning Administrator Cypher reviewed the June report supplied to the planning commissioners via email on July 6, 2021. Cypher reported his contract has been renewed for another four years by the Township Board.

10. UNFINISHED BUSINESS:

A. Lively Holdings –

Cypher reviewed the receipt of letters from the attorney, Thomas A. Grier, The Running Wise Law Firm, and Darren Brown, P.E. of Kolano and Saha Engineers, Inc. with the SUP permit findings of fact. Cypher reported on the receipt of the email from Livelys with consensus of planning commission members to review the email prior to the findings of fact review.

1. Campground Fire Management – Robert Chacon provided copies of the proposed fire management plan to the planning commissioners and zoning administrator. Cypher reviewed the plan and advised of the need of a 911 sign in addition to the location of fire apparatus. Cypher confirmed with Jim Lively that the easement access would not be included as the easement is not on the deed. Discussion followed. Otto had a question on maintaining the road surface with Lively advising of a gravel road. Cypher reported there is a standard in place for how roads are to be maintained.

Cypher advised that Livelys needs to confirm with fire chief on the allowable height of grass with respect to the concerns from neighbors about fire hazards with cars and catalytic converters. Discussion followed. Lively reported that one fire extinguisher will be located in the campground office, along with signage. Discussion followed. Lively stated there will also be several fire extinguishers in the campground area in addition to the office area.

Cypher confirmed with Chacon that fire rings are currently two feet in diameter, which are sunk into ground, with an upgrade of gravel surrounding the fire rings to be completed. Discussion followed. Chacon advised that Livelys are considering possibilities of upgrading the fire rings with the new campsite expansion if approved.

2. Fencing and Perimeter Management –Cypher advised this fencing and perimeter management plan can be added to the site plan as conditions for approval. Lively reviewed the site plan additions and type of fencing with planning commissioners. Otto confirmed there are no setback requirements on fencing with Cypher.

Discussion followed on which types of fencing are better deterrents. Schaeffer stated it may be better to keep it simple with signage showing the boundaries. More discussion ensued. Anderson advised he has concerns with a wire at three feet during the winter with Lively stating there are a lot of visuals with woven fence on the south and west where the open field is. Discussion followed. Consensus of planning commission members is they are satisfied with the fencing and perimeter management plan.

3. Easement – Discussion on hold as there is no easement listed on the deed.
4. Parking plan – Lively advised the 60 parking sites are not planned until the event site is approved for Phase Two. Currently, Lively reported, there are 22 parking spots with the campground expansion, 10 more at the farm market and 5 for guest registration and staff for a total of 37 parking spots. Planning commission members are in agreement of the parking plan.
5. On-site campground management – Cypher advised Section 7.15 states there can be campground management permanent single housing that may be beneficial for all parties. Discussion followed. Otto stated that perhaps a requirement for someone on site during active hours until staff housing is completed. Chacon stated that the contact phone number is listed at the main building, plus the booking app, HipCamp App, has the ability for campers to message Livelys if campers have questions or concerns.

Discussion followed on camper size standards. Chacon advised campers are to be under 20 feet, with primarily tent camping. More discussion ensued. Cypher advised that legal counsel can put language together regarding a permanent single housing structure. Cypher stated that a time limit can be put in place by planning commissioners for building the permanent house. Discussion followed. Chacon advised that two to three years would be a good time frame for building a permanent dwelling. All planning commission members in agreement for three years for construction with the ability for zoning administrator to extend for cause.

Discussion ensued on RV definition in ordinance. Cypher reported that the mobile home ordinance does not include a recreational vehicle. Cypher advised he will have attorney specify language for a mobile home, recreational vehicle or camper for temporary housing while permanent structure is being built.

6. Camper regulations for Guest Behavior – Discussed in number 7, quiet hours.
7. Quiet hours – Cypher proposed, in agreement with Livelys, the hours of 10pm to 7am Sunday through Thursday and 11pm to 7am on Friday, Saturday and Holidays. Discussion followed regarding the definition of quiet hours. Chair Otto stated that typically quiet hours mean that noise stays within the individual campsite. Chacon reported that all campers are required to sign an agreement

with management that they can be asked to leave immediately if they break any rules. Roush stated that the Livelys are responsible for any noise complaints with no need for further discussion. All planning commission members in agreement for quiet hour times.

8. No campfires when burn bans in effect – Chacon advised their HipCamp app advises of burn bans with signage in place at the campground and where fire wood is sold. Discussion followed.
9. Noise/sound levels – Cypher advised that with the 40 sites, there is potential for 320 people in the campground. Discussion followed. Cypher reported that the property is zoned commercial at this time. Cypher reported that Livelys have advised that if any conditions are recommended, an updated site plan will be provided.

Review of Findings of Fact

Cypher advised that the planning commission members review the findings of facts provided to planning commission members at tonight's meeting. Otto confirmed with Cypher that these sections on the findings of fact are in reference to the farm market and campground.

Section 7.7 Basis for Determination – Cypher advised that the planning commission will be receiving an updated letter from the Fire Chief to clarify fire provisions for campgrounds and the farm market at this time. Discussion followed. Cypher advised that the access easement on south west corner will be taken out. All planning commission members in agreement.

Section 7.8 Conditions and Safeguards– Cypher advised the easement access to Phase Two is going to be taken off the permits as there is an issue whether the dirt road is an easement as it is not listed on the deed. Chair Otto advised planning commissioners to adopt the attorney recommendations with Lively having an issue with number 12 of prohibiting acoustic music. Discussion followed whether to keep the attorney's recommendation of prohibiting acoustic music. All planning commission members agreed to keep all of the attorney's recommendations. The planning commissioners agreed that any changes can be made once the sound engineer's report is received.

Cypher advised that planning commissioners may need to consider a performance bond. Otto stated she is not sure that a performance bond is necessary for the campgrounds and farm market. Discussion followed. All planning commission members in agreement of no performance bond for Phase One currently.

Section 7.10 Grant or Denial of the Special Use Permit – Cypher advised he will be working on the verbiage for the special use permit.

Section 7.11 Permit Expiration or Renewal – Discussion followed regarding a time limit or renewal. Otto advised that planning commission members could put a condition of a three-year renewal with an ownership change creating another three-year renewal. More discussion ensued. All planning commission members in agreement for a two-year renewal currently.

Section 8.9 Development Site Plan Review Standards – 1.D. Cypher advised that planning commissioners could consider that if the existing screening is not on Livelys property, the Livelys would be required to install screening. Discussion followed. All planning commissioners agreed that the Livelys will put up screening if current neighbors remove the screening currently provided by the neighbor's property.

Section 8.9, 1.G. Otto confirmed with Cypher that MDOT does not require a sign permit if there is an existing sign. Cypher reported the existing sign is being repainted.

Section 8.9, 2.A. Cypher confirmed with Lively that there will be one car per campsite with overflow parking for second cars.

Section 8.9, 3.A. – Cypher advised that Livelys will need a permit for a permanent tent for the farm and retail market. Cypher stated that he will make sure MDARD is on the agency list and will forward the list to the Livelys.

Section 8.9, 3.C. – All planning commission members agreed that it is at the owners' discretion for adding windows and painting the building. Cypher advised there are night sky requirements for lighting with signage meeting township ordinance requirements, but there is no request at this time. Cypher reported that any signage on the property would meet ordinance requirements. Discussion followed. All planning commission members in agreement.

Section 8.9, 3.D. – Cypher advised the nuisance warning would cover the sound until there is a report of the sound engineer. All planning commission members in agreement.

Section 5.6 – Miscellaneous storage – Cypher confirmed with Lively that the building now being used for storage is sufficient with no further plans to build additional storage buildings until Phase Two. All planning commission members in agreement.

Section 5.13 – Cypher advised that public and semi-public events will happen later in Phase Two.

Chapter 6, Section 6.2 – Otto questioned the amount of staffing that will be on site, with Chacon advising that owners are staff with no anticipation of hiring currently, with sufficient parking in place (e.g. five parking spots).

Discussion followed regarding parking limits for the approved events. Chacon advised of temporary overflow parking on west side, with 700 people being the cap. Chacon

advised security is hired for the three approved events along with notifying local authorities.

Discussion followed regarding putting up no parking signs on non-state roads. Otto advised that Livelys will need to determine who they contact for those signs.

Section 6.8 – Chair Otto stated that with the site location and parking, she is not sure of need for landscaping for parking areas for the campground and farm market. Discussion followed. Lively advised they are will be planting native shrubs. More discussion ensued. All planning commission members in agreement no landscaping is necessary currently.

Exhibits – Cypher advised there will be an updated site plan from tonight's conversation along with an updated letter from Fire Chief with the specific approval for the campgrounds and farm market. Cypher confirmed with Lively to resend the EGLE permit to Cypher via email.

1. Definition of public and semi-public events as discussed with ZA – Planning commission members in agreement to table until Phase Two discussions begin.
2. Considerations of conditions for approval of campground and farm market – Discussion followed. Chair Otto asked if planning commissions are ready for a motion to approve the expansion of the campground and farm market per any conditions in the findings.

Carter moved to approve the expansion of the campground and farm market per any conditions in the findings; Roush seconded. Discussion followed regarding public comment with planning commission in agreement to open the floor to the public.

PUBLIC COMMENT – Ed Wilber stated as a dealer and broker, the definition of RVs is that RVs are recreational vehicles while mobile or modular homes are not.

Wilber expressed that he does not see how a two wire fence is going to help. Wilber confirmed with Chair Otto that the quiet hours are for campers, not events. Otto advised that quiet hours for events will be discussed at an appropriate time. Wilber expressed concerns regarding no fire chief recommendations yet.

Discussion followed about public comments not being the time for answers to questions and statements. Chair Otto agreed for public comments to continue.

Wilber stated his main concerns are the campfires and the noise. Wilber reported that shielding a campground might be different than when selling something and the planning commissioners may want to make screening for M72 a condition of the special use permit.

Dana Boomer stated she appreciates the noise restrictions being put in place and advised that she can already hear radio type of music from her house. Boomer states she is hopeful for more information from the sound engineer.

Boomer stated that specific points on Section 7.11 are that the planning commission cannot set a renewal for SUP unless there is a performance guarantee in place. Boomer advised that there is not continuous screening on the west property line and only cherry trees on SW corner. Boomer stated that the ordinance as written requires a four foot screening line for parked cars (Section 6.8.B).

Cypher advised that under Section 7.15, the planning commission may consider certain items that are beyond the scope to give the planning commission flexibility. Cypher wants to confirm with legal counsel regarding the performance guarantee and renewal.

Carter advised he is withdrawing his motion. Discussion followed regarding a performance bond and renewal. Discussion followed. Chair Otto confirmed with Cypher that the planning commission can do a smaller performance bond for Phase One, with a second increased bond for Phase Two. Roush advised to drop the renewal. More discussion ensued.

Chair Otto asked for any further public comment. No more public comment currently.

Roush stated that if there is no performance bond that the zoning administrator would still have ability to enforce. Discussion ensued about screening. Boomer stated that the zoning ordinance requires the parking spaces require screening from the streets. Extensive discussion ensued regarding screening of parking area, continuous perimeter screening and locations of screening. Cypher advised the planning commission can enforce the ordinance with the Livelys choosing how to accomplish this with zoning administrator approval as a condition.

Discussion about ordinance 6.8.B “shall be surrounded” followed. Cypher advised the site plan reflects vegetation along 200 feet of the southwest corner. Discussion followed. Cypher confirmed with Boomer that the screening on the site plan represents the west property line. Boomer stated the parking cannot be seen from her house but can see from her property. Boomer advised that the findings of fact states there is mature screening on the west side. Lively advised that he feels the cherry orchard is sufficient as mature screening. Again, extensive discussion ensued regarding the type of screening and various locations and size of screening.

Chair Otto confirmed with Cypher that the primary concern of screening is the parking areas with perimeter areas having screening but not necessarily four foot screening. More discussion followed. Cypher advised that the commercial section 4.9.3.C does not alleviate the need for screening. More discussion ensued regarding mature trees. Lively stated four feet trees will be planted around the parking area.

Discussion followed. Cypher advised he will add language to the Findings of Fact that where there are voids in applicable screening the applicant will provide screening per the ordinance for the perimeter of the property.

Cypher advised that the performance guarantee is a way to support the conditions to give the planning commission a guarantee to enforce the improvements if necessary. Discussion followed. Chair Otto stated that a \$1,000 performance bond would cover the small trees. Schaeffer read into record Section 7.14.A regarding the planning commission requiring a performance guarantee. More discussion ensued. Chair Otto confirmed with Cypher that the performance guarantee would be the gravel for parking areas, four foot trees around parking areas, and small trees for the voids in the perimeter. Discussion followed regarding the performance guarantee amount. Cypher advised that there could be a performance guarantee in an amount to be determined with Livelys putting together a cost estimate for the August meeting.

Carter moved to approve the expansion of the campground and farm market per changes in the Findings of Fact to provide screening per the zoning ordinance, plus if screening removed by neighbors, the Livelys will replace, with a performance guarantee required in an amount determined at the August meeting; Anderson seconded. Roll call vote: Anderson – Yes; Carter – Yes; Roush – Yes; Schaeffer – Yes; and Otto – yes. All present in favor, motion carried.

11. NEW BUSINESS:

- A. Set public hearing date for Benzie County gravel pit renewal – Roush moved to set a public hearing date for the Benzie County gravel pit renewal for the August meeting; Carter seconded. All present in favor, motion carried.
- B. Set public hearing date for Leelanau Excavating gravel pit renewal – Roush moved to set a public hearing date for the Leelanau Excavating County gravel pit renewal for the August meeting; Carter seconded. All present in favor, motion carried.

12. COMMENTS FROM THE PUBLIC: None currently.

13. COMMENTS FROM THE COMMISSIONERS: None currently.

14. NEXT MEETING: Regular meeting on Monday, August 16, 2021, 7:00pm, Kasson Township Hall.

15. ADJOURNMENT: Chair Otto requested a motion for adjournment of the July 19, 2021, Planning Commission meeting. Carter moved to adjourn the meeting; Anderson seconded. All present in favor, motion carried. Meeting adjourned at 11:01pm.

Respectfully Submitted

Sandra Dunkin, Recording Secretary

Date Approved:

STATE OF MICHIGAN)
LEELANAU COUNTY) SS)
KASSON TOWNSHIP)

A RESOLUTION GRANTING AN EXTENSION OF A SPECIAL USE PERMIT FOR EARTH REMOVAL, GRAVEL PROCESSING AND MINING OPERATIONS ON PROPERTY TAX PARCELS 045-007-017-001-10 and 045-007-017-001-20

WHEREAS, **Elmers Real Estate Co**, the owner of property located **9848 S Coleman Rd.,** Maple City, MI, ("Elmers 669 Pit") has filed an application for a Special Use permit **extension to an** existing, approved site plan, said property being zoned "**Gravel District]**" and legally described as shown in a Planning/Zoning Application and known as Tax Parcel **045-007-017-001-10 and 045-007-017-001-20.**

WHEREAS, following due and proper notice by publication in the *Leelanau Enterprise* not less than fifteen (15) days prior thereto, and by mailing notice to all owners of property abutting the subject property within 300 feet at least fifteen (15) days prior thereto, the Kasson Township Planning Commission ("the Commission") conducted a public hearing on **June 19, 2021**, at which the petitioners presented evidence, testimony, and exhibits in support of the requested extension of a Special Use Permit, and **no** persons testified in favor of the petition and **none** in opposition thereto; and

WHEREAS, the Commission, has made its findings of fact which are documented in the Findings of Fact of the Commission, dated **June 19, 2021**, and are appended hereto; and

WHEREAS, the Commission having considered the findings of fact and has determined that **extending** a Special Use Permit to allow **Earth Removal, Gravel Processing and Mining Operations** on the subject property is consistent with the requirements established by Chapter Seven of the Kasson Township Zoning Ordinance;

NOW, THEREFORE, BE IT RESOLVED BY THE KASSON TOWNSHIP PLANNING COMMISSION, COUNTY OF LEELANAU, STATE OF MICHIGAN as follows:

SECTION ONE: The Findings of Fact of the Commission, are hereby accepted, and the findings of fact set forth herein are hereby adopted as the findings of fact and conclusions of the Kasson Township Planning Commission

SECTION TWO: Based on the findings of fact set forth above, a Special Use Permit **extensjon** is hereby **granted** to allow **Earth Removal, Gravel Processing and Mining Operations** n on property located at **9848 S Coleman Rd.,** Maple City, MI, and known as tax parcels, **45-007-017-001-10 and 45-007-017-001-20.**

SECTION THREE: This Special Use Permit is subject to the following conditions:

- 1) **For a period of two years, ending on June 19, 2023.**

SECTION FOUR: Failure of the owners or other party in interest or a subsequent owner or other party in interest to comply with the terms of this Special Use Permit, after issuance of this Special Use Permit, shall subject the owners or party in interest to the penalties set forth in Chapter 7 of the Kasson Township Zoning Ordinance.

PASSED BY THE KASSON TOWNSHIP PLANNING COMMISSION THIS 19TH DAY OF JUNE, 2021.

Commissioners	Aye:	Nay:	Abstain:	Absent:
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Jim Anderson	X			
Tad Carter	X			
Stella Otto	X			
Jerry Roush	X			
Chuck Schaeffer	X			

Stella Otto

Stella Otto, Planning Commission Chairperson

ATTEST

Gerry Roush

Gerry Roush, Planning Commission Vice Chairperson

Note: Those words, above, colored red, are the variable data that are unique to this particular resolution and to the standard language of the *KTPC Approval Resolution One*.